

BOARDS AND COMMISSIONS
Board of Licensure for Massage Therapy
(Amendment)

201 KAR 42:020. Fees.

RELATES TO: KRS 309.357[, 309.362(2), (3)]

STATUTORY AUTHORITY: KRS 309.355(3), 309.357

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.355(3) requires the board to promulgate administrative regulations to implement KRS 309.350 to 309.364. KRS 309.357 requires the board to establish reasonable fees for the licensure of massage therapists. KRS 309.357[309.362](2) and (3) authorize the issuance of an inactive license and reinstatement. This administrative regulation establishes the fees relating to massage therapy (MT) licensure.

Section 1. Fee Payments. (1) All fees established in Section 2 of this administrative regulation shall be:

(a) Made payable as required by KRS 309.356 to the Kentucky State Treasurer[State Treasury]; and

(b) Paid by:

1. Cashier's check;
2. Certified check;
3. Money order;
4. Personal check; or
5. Online payment by credit card, debit card, or electronic check.

(2) A payment for an application fee that is incorrect shall be returned to the applicant and the application shall not be posted until the correct fee is received.

(3) The application fee and the initial licensure fee established in Section 2(1) of this administrative regulation shall be nonrefundable.

(4) If it is determined that a refund of any fee is required, the refund shall be issued to the applicant or licensee.

Section 2. Fees. (1) The fee for an initial massage therapist license shall be \$200[425].

(2)(a) The biennial renewal fee for a massage therapist license renewed on or before the renewal date shall be \$200[400].

(b) If the license is renewed after the renewal date and up to sixty (60) days after expiration of the license, the fee for late renewal shall be \$225[150].

(c) If the license is renewed sixty-one (61) to ninety-one (91)[ninety (90)] days after the expiration of the license, the late renewal fee shall be \$250[200].

(d) If a license has been expired for [If a license is not renewed within-]ninety (90) days or more[of expiration of the license], the licensee shall apply for reinstatement.[the applicant shall comply with KRS 309.357(6).]

(3) The licensee may apply to reinstate the license by paying the late renewal fee of \$250 and the following reinstatement fee:

(a) For applications for reinstatement submitted after ninety (90) days but before one (1) year after the license expired, \$100;

(b) For applications for reinstatement submitted after one (1) year but before two (2) years after the license expired, \$150;

(c) For applications for reinstatement submitted after two (2) years but before three (3) years after the license expired, \$200;

(d) For applications for reinstatement submitted after three (3) years but before four (4) years after the license expired, \$250; or

(e) For applications for reinstatement submitted after four (4) years but before five (5) years after the license expired, \$300.

(f) A license shall not be reinstated under Section 2 (2)(d) if more than five (5) years have passed since the license expired. A person may apply for and obtain a new license by meeting the current requirements for licensure.

(4) [(3)] A licensee shall be in good standing with the board at the time the licensee elects inactive status.

(5) [(4)] (a) The annual renewal date for an inactive license shall remain the original issue date of the license.

(b) The fee for the issuance of an inactive license shall be fifty (50) dollars.

(c) The annual renewal fee for an inactive license shall be fifty (50) [thirty-five (35)] dollars.

(6) [(5)] If the inactive license is renewed after the renewal date and up to sixty (60) days after expiration of the license, the fee for late inactive renewal shall be seventy (70) dollars [52.50].

(7) [(6)] If the inactive license is renewed sixty-one (61) to ninety (90) days after the expiration of the license, the late renewal fee shall be eighty-five (85) [seventy (70)] dollars.

(8) [(7)] The application fee for restoring [moving] a license from inactive to active status shall be fifty (50) dollars and shall not be prorated.

(9) [(8)] A licensee who elects inactive status or an inactive licensee electing to activate his or her license shall complete and submit an Application for Inactive or Return to Active Status in addition to the fee referenced in subsection (7) of this section. An applicant shall affix a two (2) inch by two (2) inch or larger passport quality color photograph of the applicant to the Application for Inactive or Return to Active Status.

(10) [(9)] A licensee who elects to give notice of the licensee's retirement and voluntarily surrender his or her massage therapy license shall complete and submit a notarized Voluntary Retirement Non-Renewal form.

(11) The fee for an initial Certificate of Good Standing for a program of massage therapy instruction in accordance with 201 KAR 42:080, Section 2, shall be \$125.

(12) The annual fee for renewal of a Certificate of Good Standing for a program of massage therapy instruction in accordance with 201 KAR 42:080, Section 3, shall be seventy-five (75) dollars.

(13) The fee for a one (1) time Certificate of Good Standing shall be fifty (50) dollars. This is only applicable to: out-of-state schools who have a graduate applying to the board for licensure as a massage therapist and therefore complete the Certificate of Good Standing application for the period of time in which the graduate was in attendance.

Section 3. Incorporation by Reference. (1) The [following material is incorporated by reference:

(a) "Application for Inactive Status, Renewal of Inactive Status, or Return to Active Status", June 2021 is incorporated by reference. [October 2016; and

(b) "Voluntary Retirement Non-Renewal", October 2016.]

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Professional Licensing, 500 Mero Street [Division of Occupations and Professions, 911 Leawood Drive], Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. The board's Web site address is: <https://bmt.ky.gov/>.

BRANDY MADDING, LMT, Chair

APPROVED BY AGENCY: September 13, 2021

FILED WITH LRC: September 15, 2021 at 9:58 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 8:00 a.m. EST on November 29, 2021, at 500 Mero Street, 133CE, Frankfort, Kentucky 40601. All attendees shall comply with all Executive Orders relating to the State of Emergency as may be in effect on the date of the public hearing, which may be found at: <https://governor.ky.gov/covid-19>. Members of the public may utilize the following link to attend the meeting by video conference:

Join from PC, Mac, Linux, iOS or Android:
<https://us02web.zoom.us/j/85834511709?pwd=ZENzSmp5Q0MyQS9GK01vcFpCTjJVQT09>
Password: 270127

Or Telephone:

Dial:

USA 713 353 0212

USA 8888227517 (US Toll Free)

Conference code: 511232

Find local AT&T Numbers:
<https://www.teleconference.att.com/servlet/glbAccess?process=1&accessNumber=7133530212&accessCode=511232>

Or an H.323/SIP room system:

H.323:

162.255.37.11 (US West)

162.255.36.11 (US East)

115.114.131.7 (India Mumbai)

115.114.115.7 (India Hyderabad)

213.19.144.110 (Amsterdam Netherlands)

213.244.140.110 (Germany)

103.122.166.55 (Australia Sydney)

103.122.167.55 (Australia Melbourne)

149.137.40.110 (Singapore)

64.211.144.160 (Brazil)

149.137.68.253 (Mexico)

69.174.57.160 (Canada Toronto)

65.39.152.160 (Canada Vancouver)

207.226.132.110 (Japan Tokyo)

149.137.24.110 (Japan Osaka)

Meeting ID: 858 3451 1709

Password: 270127

SIP: 85834511709@zoomcrc.com

Password: 270127

Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date (November 18), the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made.

If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 PM EST on November 30, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Leah Cooper Boggs, General Counsel, Department of Professional Licensing, 500 Mero Street 237 CW, phone (office) (502) 782-0562, phone (cell) (502) 352-8095, fax (502) 564-3969, email LBoggs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets the fees associated with licensure for massage therapy.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to update the fee structure for massage therapy. The fee structure was originally set in 2003. The current revenues of the Board of Licensure for Massage Therapy do not cover their expenditures and they have several significant unpaid bills. In the last legislative session, the legislature recognized this problem and removed the fee cap.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The Board is required by KRS 309.355(1) to regulate the practice of massage therapy. KRS 309.355(3) also authorizes the Board to promulgate administrative regulations regarding the practice of massage therapy. KRS 309.357 requires the Board to set reasonable fees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation sets the fees for licensure, renewal, reinstatement, inactive status, and Certificates of Good Standing.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amended regulation increases the fees. The Board was operating at a deficient and needed an increase in fees to be financially stable. The statute was amended in the last session to increase the fee cap, so that fees could be raised.

(b) The necessity of the amendment to this administrative regulation: See above.

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c).

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect the 2,665 individuals licensed by the Board, the 27 holders of a Certificate of Good Standing, anyone interested in obtaining a license or a Certificate of Good Standing from the Board, and the Board of Licensure for Massage Therapy.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Pay the increased fee on application or renewal.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

Application Fee	\$ 200.00
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Renewals	\$ 200.00
Late Renewals 0-60 days	\$ 225.00
Late Renewals 61 - 90 days	\$ 250.00
Inactive Renewal	\$ 50.00
Inactive 0-60 days	\$ 70.00
Inactive 61-90 days	\$ 85.00
Inactive to Active	\$ 50.00
Certificate of Good Standing	\$ 125.00
One-time Certificate of Good Standing	\$ 50.00
Certificate of Good Standing	\$ 75.00
Reinstate 90 days to 1 year	\$ 350.00
Reinstate 1 year to 2 years	\$ 400.00
Reinstate 2 years to 3 years	\$ 450.00
Reinstate 3 years to 4 years	\$ 500.00
Reinstate 4 years to 5 years	\$ 550.00

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The Board will receive enough review to become financially stable. The individuals and businesses, which are licensed and those seeking licensure can become licensed upon paying the increased fee.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: None.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Board is funded through license fees in a restricted fund. However, there is no cost to the implementation and enforcement of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This regulation increases the fees charged licensees and prospective licensees.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation establishes fees.

(9) TIERING: Is tiering applied? Tiering is not applicable as the proposed language will be applied equally to all entities impacted by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Board of Licensure for Massage Therapy.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.355(1), 309.355(3)

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fires, or school districts) for the first year? \$140,000

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? \$140,000

(c) How much will it cost to administer this program for the first year? There are no additional costs.

(d) How much will it cost to administer this program for subsequent years? See 3(c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): +\$140,000

Expenditures (+/-):

Other Explanation: